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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY SP DEPUTY

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Attorney for Plaintiffs **SAMANTHA LOPEZ** (by and through her Legal Custodian **LILIANA CORTEZ**), **FILADELFO LOPEZ LARA**, **ALONZO LOPEZ**, **ANNA LOPEZ**, & **JULIA LOPEZ**

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

'07 CV 2028

JLS WMc

SAMANTHA LOPEZ, a minor (by and through her Legal Custodian **LILIANA CORTEZ**), **FILADELFO LOPEZ LARA**, **ALONZO LOPEZ**, **ANNA LOPEZ**, & **JULIA LOPEZ**, as surviving heirs of **DAVID ARNULFO LOPEZ**, deceased,

Plaintiffs,

v.

COUNTY OF SAN DIEGO, a municipal corporation, **CITY OF VISTA**, a municipal corporation & **DOES 1-50**, inclusive,

Defendants

COMPLAINT FOR MONEY DAMAGES:

- (1) Wrongful Death 42 U.S.C. § 1983;
- (2) Excessive Force 42 U.S.C. § 1983;
- (3) Assault & Battery
- (4) Intentional Infliction of Emotional Distress
- (5) Negligence

DEMAND FOR JURY TRIAL

COME NOW, the ESTATE OF **DAVID ARNULFO LOPEZ**, through its personal representatives and surviving heirs, **SAMANTHA LOPEZ**, a minor (by and through her Legal Custodian **LILIANA CORTEZ**), **FILADELFO LOPEZ LARA**, **ALONZO LOPEZ**, **ANNA LOPEZ** and **JULIA LOPEZ**, by their attorneys of record, **VICTOR MANUEL TORRES** and **EZEKIEL E. CORTEZ**, and allege and complain as follows:

INTRODUCTION

1. This is an action for money damages brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States, the Constitution of the State of California, against defendants the COUNTY OF SAN DIEGO, the CITY OF VISTA, and DOES 1-50.

2. Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343, and on the pendent jurisdiction of this court to entertain claims arising under state law under 28 U.S.C. § 1367. Venue is proper in the Southern District of California because the acts or omissions which form the basis of the Plaintiff's claims occurred in the County of San Diego.

2. The matter in controversy exceeds, exclusive of interests and costs, the jurisdictional minimum of this court of One Hundred Fifty Thousand dollars (\$150,000.00).

3. Plaintiffs have complied with California Government Code §§ 800 *et seq.* Plaintiff's timely claims have been denied or the time for timely response by the Local Public Entities concerned has elapsed.

PARTIES

4. At all times relevant to this complaint, DAVID ARNULFO LOPEZ was an individual residing in the County of San Diego and his death, as set forth more fully below, resulted in the creation of the ESTATE OF DAVID ARNULFO LOPEZ, which brings this lawsuit by its personal representatives and surviving heirs SAMANTHA LOPEZ, his daughter, FILADELFO LOPEZ LARA, his father, ALONZO LOPEZ, his brother, ANNA LOPEZ, his sister, and JULIA LOPEZ, his sister.

5. At all times relevant to this complaint, each of the Plaintiffs was an individual residing in the County of San Diego.

1 6. Plaintiffs are truly ignorant of the true names and capacities of DOES 1-50, inclusive,
2 and/ or are truly ignorant of the facts that give rise to their liability.

3 7. These DOE defendants are agents, servants and employees of each other or of the other
4 named defendants and were acting at all times with the full course and scope of their agency and
5 employment, with the full knowledge and consent, either expressed or implied, of their principal
6 and/ or employer and each of the other named defendants, and each of the defendants had
7 approved or ratified the actions of the other defendants thereby making the currently named
8 defendants liable for the acts and/ or omissions of their agents, servants and/ or employees.
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10 8. At all times relevant to this complaint, defendants COUNTY OF SAN DIEGO and
11 CITY OF VISTA were municipal corporations operating in the County of San Diego.

12 **FACTS**

13 9. On or about October 21, 2006, at about 6:15 p.m. Sheriff's Deputies received a
14 telephone call concerning a family disturbance call at the trailer park at 1205 North Santa Fe
15 Drive, Vista, CA 92083. The call was made by David Arnulfo Lopez's estranged wife.

16 10. Shortly thereafter, Mr. Lopez's estranged wife updated her previous call to state that Mr.
17 Lopez was going through her trailer "stabbing stuff."

18 11. At 6:43 p.m., the first Sheriff's Deputy arrived at the scene. After another two Sheriff's
19 Deputies arrived, the Deputies contacted Mr. Lopez's estranged wife who directed the Deputies
20 to space number 59.
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22 12. Upon arrival at space 59, the Sheriff's Deputies reportedly observed a male looking
23 through the trailer's sliding glass door. One of the Deputies deployed his police canine into the
24 trailer. A male was observed trying to break through the bathroom window but was
25 unsuccessful.
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1 13. Shortly thereafter, David Arnulfo Lopez emerged from the trailer through the front door
2 where the three Sheriff's Deputies were positioned with their government-issued firearms
3 drawn.

4 14. When David Arnulfo Lopez emerged from the trailer he was struck at least twelve times
5 by bullets in the thorax, back, buttocks, shoulder and thigh.

6 15. When David Arnulfo Lopez emerged from the trailer he was not armed with any weapon
7 and did not pose any threat to the safety of himself or others.

8 16. It is unclear whether David Arnulfo Lopez died immediately from his gunshot wounds.
9 Mr. Lopez was declared dead at the scene. No attempts to resuscitate or aid Mr. Lopez are
10 known to have been given.

11 17. The defendant Sheriff's Deputies had not witnessed Mr. Lopez commit any crime, had
12 no warrant for arrest and no legal cause to seize the person of Mr. Lopez.

13 18. As a direct and proximate result of the acts state herein by the defendants, individually
14 and collectively, David Arnulfo Lopez suffered the following injuries and damages:

15 a. Violation of his rights guaranteed under the Fourth and Fourteenth Amendments
16 to the Constitution of the United States to be free from unreasonable search and seizure;

17 b. Loss of his life;

18 c. Physical pain and suffering and emotional trauma and suffering as the result of
19 the excessive use of force, and being shot by firearms at least twelve times at close range;

20 19. Plaintiff Samantha Lopez suffered the untimely end of her relationship with her father,
21 with corresponding loss of his income, services, protection, care, assistance, society,
22 companionship comfort, guidance, counsel and advice.

23 20. Plaintiff Filadelfo Lopez Lara suffered the untimely end of his relationship with his son,
24 with corresponding loss of his income, services, protection, care, assistance, society,
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1 companionship comfort, guidance, counsel and advice, and was forced to incur funeral expenses
2 and costs for the disposition of his son's remains.

3 21. Plaintiffs Alonzo Lopez, Anna Lopez, and Julia Lopez suffered the untimely end of their
4 relationship with their brother, with corresponding loss of his income, services, protection, care,
5 assistance, society, companionship comfort, guidance, counsel and advice, and were forced to
6 incur funeral expenses and costs for the disposition of their brother's remains.

7 22. The actions of the defendants, individually and collectively violated the following
8 clearly established and well-settled federal constitutional rights of David Arnulfo Lopez:
9

- 10 a. Freedom from unreasonable seizure of his person;
11 b. Freedom from the use of excessive, unreasonable and unjustified force against
12 his person.

13 **FIRST CAUSE OF ACTION. 42 U.S.C. § 1983 – WRONGFUL DEATH**

14 23. Paragraphs 1 through 22 are incorporated herein by reference as though fully set forth.

15 24. Defendants, individually and collectively, acting under color of law, committed wrongful
16 acts which proximately caused the death of David Arnulfo Lopez. Specifically, the defendants,
17 individually and collectively, deprived David Arnulfo Lopez of his rights under the Constitution
18 of the United States to be free from the use of excessive force by law enforcement agents,
19 punishment without due process and unlawful stop, search and seizure without reasonable
20 suspicion, probable cause and due process of law. Such deprivation resulted in the death of
21 David Arnulfo Lopez. By their acts and/ or omissions, the defendants violated the constitutional
22 guarantees afforded David Arnulfo Lopez under the Fourth and Fourteenth Amendments. The
23 defendants, individually and collectively used excessive force as alleged herein against David
24 Arnulfo Lopez with a purpose to cause harm that is unrelated to the legitimate use of force. The
25 force was used to make David Arnulfo Lopez suffer and to punish him. The force used was
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1 unreasonable and performed with a deliberate indifference to the safety and welfare of David
2 Arnulfo Lopez and others. The shooting of an unarmed cornered man, posing no risk of harm to
3 persons or property is objectively unreasonable and the defendants were such that no reasonable
4 law enforcement agent would have considered the use of force to be justified thereby violating
5 David Arnulfo Lopez's constitutional freedom from unreasonable seizure.

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7 25. Plaintiffs SAMANTHA LOPEZ, by and through her Legal Guardian Liliana Cortez,
8 FILADELFO LOPEZ LARA, ALONZO LOPEZ, ANNA LOPEZ, and JULIA LOPEZ claim
9 damages for the wrongful death of David Arnulfo Lopez and for loss of his income, services,
10 protection, care, assistance, society, companionship, comfort, guidance, counsel and advice, and
11 for funeral expenses and costs for the disposition of David Arnulfo Lopez's remains under 42
12 U.S.C. § 1983 and the Constitution and Statutes of the State of California.

13 26. Defendants COUNTY OF SAN DIEGO and CITY OF VISTA also maintained a custom,
14 policy or practice of using excessive force against Hispanic males in an effort to intimidate
15 Hispanic males. Defendants COUNTY OF SAN DIEGO and CITY OF VISTA also maintained
16 an unconstitutional policy regarding the use of alternative force. The COUNTY OF SAN
17 DIEGO and the CITY OF VISTA knew or should have known that it should arm and train its
18 Sheriff's Deputies in the use of force other than deadly force, such as tasers or stun-guns. This
19 unconstitutional policy and refusal to arm and train its Sheriff's Deputies in alternatives to
20 deadly force was a direct cause of the death of David Arnulfo Lopez.

21
22 27. The conduct alleged herein violated the constitutional rights of David Arnulfo Lopez and
23 resulted in the deprivation of plaintiff's rights alleged herein, which has legally, proximately,
24 foreseeably, and actually cause plaintiffs to suffer emotional distress, pain, suffering, and further
25 general and special damages according to proof at the time of trial.

1 28. The conduct alleged herein also amounts to oppression, fraud, or malice within the
2 meaning of Civil Code § 3294, thereby justifying the award of exemplary damages against these
3 defendants in an amount according to proof at the time of trial in order to deter the defendants
4 from engaging in similar misconduct and to make an example by way of monetary punishment.
5 Plaintiffs are also entitled to attorney fees and costs of suit herein pursuant to statute.

6 **SECOND CAUSE OF ACTION. ASSAULT AND BATTERY – WRONGFUL DEATH**

7 29. Paragraphs 1 through 22 are incorporated herein by reference as though fully set forth.

8 30. Defendants, individually and collectively, acted with intent to cause harmful or offensive
9 contact with the person of David Arnulfo Lopez and the intended harmful or offensive contact
10 did in fact occur. The harmful or offensive contact was in no way privileged nor consented to
11 and was excessive, unreasonable and done with deliberate indifference to the rights and safety of
12 David Arnulfo Lopez, and was done with the intent to inflict punishment on David Arnulfo
13 Lopez, above and beyond the reason for using force in the first instance. Sheriff's Deputies,
14 named herein as DOES 1-50, assaulted and battered David Arnulfo Lopez.

15 31. As a result of the defendant's intent to cause harmful or offensive contact with the
16 person of David Arnulfo Lopez and the fact that the intended harmful or offensive contact did in
17 fact occur, the Estate of David Arnulfo Lopez, and consequently his heirs, have suffered
18 damages according to proof at the time of trial. Such damages are in excess of this court's
19 jurisdictional minimum and include loss or damage that David Arnulfo Lopez sustained or
20 incurred before death and damages that David Arnulfo Lopez would be entitled to recover had
21 he survived.

22 32. Defendant's conduct, individually and collectively, also amount to oppression, fraud or
23 malice within the meaning of Civil Code § 3294, *et seq.*, and punitive damages should be
24 assessed against each defendant for the purpose of punishment and for sake of example.
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1 33. Plaintiffs SAMANTHA LOPEZ, by and through her Legal Guardian Liliana Cortez,
2 FILADELFO LOPEZ LARA, ALONZO LOPEZ, ANNA LOPEZ, and JULIA LOPEZ claim
3 damages for the wrongful conduct of the defendants resulting in the death of David Arnulfo
4 Lopez and for loss of his income, services, protection, care, assistance, society, companionship
5 comfort, guidance, counsel and advice, and for funeral expenses and costs for the disposition of
6 David Arnulfo Lopez's remains under the laws of the State of California.
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8 **THIRD CAUSE OF ACTION. INTENTIONAL INFLICTION OF EMOTIONAL**
9 **DISTRESS**

10 34. Paragraphs 1 through 22 are incorporated herein by reference as though fully set forth.

11 35. By engaging in the acts, omissions and misconduct alleged herein, the defendants
12 engaged in outrageous conduct with a reckless disregard of the probability of causing plaintiffs
13 to suffer emotional distress.

14 36. As a direct, proximate and foreseeable result of defendant's outrageous conduct,
15 individually and collectively, plaintiffs have suffered severe emotional distress.

16 37. Defendant's conduct, individually and collectively, also amount to oppression, fraud or
17 malice within the meaning of Civil Code § 3294, *et seq.*, and punitive damages should be
18 assessed against each defendant for the purpose of punishment and for sake of example.

19 38. Plaintiffs SAMANTHA LOPEZ, by and through her Legal Guardian Liliana Cortez,
20 FILADELFO LOPEZ LARA, ALONZO LOPEZ, ANNA LOPEZ, and JULIA LOPEZ claim
21 damages for the wrongful conduct of the defendants resulting in the death of David Arnulfo
22 Lopez and for loss of his income, services, protection, care, assistance, society, companionship
23 comfort, guidance, counsel and advice, and for funeral expenses and costs for the disposition of
24 David Arnulfo Lopez's remains under the laws of the State of California.
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FOURTH CAUSE OF ACTION. NEGLIGENCE

39. Paragraphs 1 through 22 are incorporated herein by reference as though fully set forth.

40. Defendants, individually and collectively, had a duty to plaintiffs to act with ordinary care and prudence so as not to cause harm or injury to another.

41. By engaging in the acts alleged herein, the defendants failed to act with ordinary care and breached their duty of care owed to plaintiffs.

42. As a direct, proximate and foreseeable result of the defendant's breach of their duty of care, plaintiff's suffered damages in an amount according to proof at the time of trial.

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WHEREFORE, all Plaintiffs request that this court:

- a. Award general damages, including emotional distress, to all plaintiffs against all defendants;
- b. Award special damages to all plaintiffs against all defendants;
- c. Award costs of this action to all Plaintiffs;
- d. Award exemplary damages to all plaintiffs against all defendants;
- e. Award reasonable attorney's fees and costs to the all Plaintiffs on Count I of the complaint; and
- f. Award such other and further relief as this court may deem appropriate.

All Plaintiffs hereby demand a jury trial.


DATED: 10/19/07

Plaintiffs SAMANTHA LOPEZ (by and through her Legal Guardia, LILIANA CORTEZ),
FILADELFO LOPEZ LARA, ALONZO LOPEZ,
ANNA LOPEZ, and JULIA LOPEZ

by


VICTOR MANUEL TORRES
Attorney for Plaintiffs

DATE: 10/19/07


EZEKIEL E. CORTEZ
Attorney for Plaintiffs

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS SAMANTHA LOPEZ, A MINOR (BY & THROUGH HER LEGAL CUSTODIAN, LILIANA CORTEZ), FILADELFO LOPEZ LARA, ALONZO LOPEZ, et al. (b) County of Residence of First Listed Plaintiff <u>SAN DIEGO</u> (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorney's (Firm Name, Address, and Telephone Number) <u>VICTOR MANUEL TORRES, 2664 FOURTH AVE., SAN DIEGO, CA 92103, EZEKIEL E. CORTEZ</u>	DEFENDANTS THE COUNTY OF SAN DIEGO, THE CITY OF VISTA & does 1-501 FOR US DISTRICT COURT County of Residence of First Listed Defendant <u>SAN DIEGO CALIFORNIA</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. Attorneys (If Known) <div style="text-align: right; font-size: 1.2em; font-weight: bold;">'07 CV 2028 JLS WMC</div>
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width: 100%;"> <tr> <td style="width: 33%;">Citizen of This State</td> <td style="width: 33%;">PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1</td> <td style="width: 33%;">Incorporated or Principal Place of Business In This State</td> <td style="width: 33%;">PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td>PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6
Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4										
Citizen of Another State	PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5										
Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6										

IV. NATURE OF SUIT (Place an "X" in One Box Only)			
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS <table style="width: 100%;"> <tr> <td style="width: 50%;"> PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury </td> <td style="width: 50%;"> PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability </td> </tr> </table> CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability
PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability		

PRISONER PETITIONS
☐ 510 Motions to Vacate Sentence
☐ Habeas Corpus:
☐ 530 General
☐ 535 Death Penalty
☐ 540 Mandamus & Other
☐ 550 Civil Rights
☐ 555 Prison Condition

| **FORFEITURE/PENALTY** ☐ 610 Agriculture ☐ 620 Other Food & Drug ☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 630 Liquor Laws ☐ 640 R.R. & Truck ☐ 650 Airline Regs. ☐ 660 Occupational Safety/Health ☐ 690 Other **LABOR** ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 730 Labor/Mgmt. Reporting & Disclosure Act ☐ 740 Railway Labor Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act | **BANKRUPTCY** ☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 **PROPERTY RIGHTS** ☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark **SOCIAL SECURITY** ☐ 861 HIA (1395f) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) **FEDERAL TAX SUITS** ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609 |
| **OTHER STATUTES** ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 810 Selective Service ☐ 850 Securities/Commodities/Exchange ☐ 875 Customer Challenge 12 USC 3410 ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 892 Economic Stabilization Act ☐ 893 Environmental Matters ☐ 894 Energy Allocation Act ☐ 895 Freedom of Information Act ☐ 900 Appeal of Fee Determination Under Equal Access to Justice ☐ 950 Constitutionality of State Statutes | |

V. ORIGIN (Place an "X" in One Box Only) <input checked="" type="checkbox"/> Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>42 U.S.C. § 1983, 1988</u> Brief description of cause: <u>WRONGFUL DEATH, EXCESSIVE FORCE, ASSAULT & BATTERY, ETC.</u>

VII. REQUESTED IN COMPLAINT: <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____
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DATE <u>10/18/07</u>	SIGNATURE OF ATTORNEY OF RECORD <u>VICTOR M. TORRES</u>
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FOR OFFICE USE ONLY	RECEIPT # <u>143688</u> AMOUNT <u>\$350</u> APPLYING IFP <u>10/19/07</u> JUDGE _____ MAG. JUDGE _____
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**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

143688 - KD

**October 19, 2007
10:34:04**

Civ Fil Non-Pris

USAO #: 07CV2028-JLS

Amount.: \$350.00 CK

Check#: BC 2930

Total-> \$350.00

FROM: CIVIL FILING
LOPEZ, MINOR, ET AL V. SAN DIE
ET AL